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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL 24 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Policy and Rules Concerning)	CC Docket No. 87-313
Rates for Dominant Carriers)	
)	
Revisions to Price Cap Rules)	CC Docket No. 93-197
for AT&T)	

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AT&T REPLY

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SUMMARY

Eight competitors or would-be competitors of AT&T have submitted comments on the changes to the price cap rules proposed in this Further Notice of Proposed Rulemaking ("Further Notice"). Predictably, these parties urge imposition of additional regulatory burdens on AT&T, repeating their time-worn claims that AT&T is "dominant" and that the interexchange marketplace is not fully competitive. These claims are unsupported and fallacious.

The comments fail to refute AT&T's showing that the interexchange telecommunications marketplace is intensely competitive and that the proposed rules and the further embellishments on them that the commenters propose are no longer necessary, appropriate or lawful. Consumer welfare will be maximized not by the imposition of burdensome new rules, which are not supported by any consumers, but by full and open marketplace competition.

Specifically, the four RBOC commenters assert that AT&T has failed to flow through all access charge reductions and cite this as supposed evidence of market power. These claims are sheer nonsense. AT&T has shown that it has filed rate reductions that exceed access cost savings by hundreds of millions of dollars and that the NERA study upon which the RBOCs base their spurious claim uses flawed methodology which understates access flow-through. This is confirmed by an independent analysis of the staff of the Bureau of Economics of the FTC.

Likewise, there is no basis for claims that supposed "lock-step" pricing by the three largest IXC's demonstrates a lack of marketplace competition. To the contrary, this is indicative of vigorous and effective competition whereby other IXC's, like AT&T, seek to better align costs with rates. Indeed, even if this were a real concern (which it is not), the remedy would be more pricing flexibility for AT&T not less, as AT&T's competitors propose.

AT&T has also shown that the Commission's concerns regarding universal service and the general availability of AT&T's discount programs are unfounded because market pressures would preclude any attempt by AT&T (or any other interexchange carrier) to raise rates in any market segment to unreasonable levels. Contrary to some commenters' suggestions, AT&T's discount programs are already available to the overwhelming majority of AT&T customers and are continuously being expanded. Over 60% of AT&T's minutes of use and about two thirds of AT&T's residential customers qualify for discounts, which begin with as little as \$10 in monthly usage.

The evidence before the Commission also provides no support for the claim that the level of AT&T's long-distance rates reduces telephone "penetration." Studies cited by commenters, and in the Further Notice, suggest instead that an excessive volume of toll usage (like excessive usage of LEC premium features) may be one factor

associated with disconnection of basic local service, not rate levels. In all events, increasing telephone subscribership is an industry-wide issue that should be addressed in a comprehensive rulemaking (such as the Commission has recently initiated), not through a proceeding focused on AT&T's promotional tariffs.

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AT&T REPLY

AT&T Corp. ("AT&T") hereby replies to the comments submitted in response to the Commission's May 18, 1995, Further Notice of Proposed Rulemaking ("Further Notice") in these proceedings.¹

While consumers -- the supposed beneficiaries of the Further Notice -- have conspicuously failed to express any support for the Commission's proposals in this proceeding, eight competitors or would-be competitors of AT&T have submitted comments on the Further Notice. Not surprisingly, these parties urge imposition of additional regulatory burdens on AT&T, repeating their time-worn claims that AT&T is "dominant" and that the interexchange

¹ Policies and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Revisions to Price Cap Rules for AT&T, CC Docket No. 93-197, Further Notice of Proposed Rulemaking, FCC 95-198, released May 18, 1995. A list of the parties filing comments and the abbreviation used to refer to each party is included in Attachment 1.

marketplace is not fully competitive. The unsupported arguments and fallacious "evidence" adduced by those who would further tilt the playing field against AT&T typify the regulatory gamesmanship which asymmetrical regulation encourages, and underscore the need for the Commission to dismantle the regulatory edifice that makes such tactics possible.

For example, CompTel (pp. 4-5) proposes an outrageous "holdfast" plan that would not only prohibit customers of AT&T's promotions and optional calling plans (collectively "APPs") from committing to the underlying AT&T service beyond 90 days, but would also prohibit customers of an APP from being automatically transferred to another AT&T service after the APP expires. That this would deny customers the service of their choice, and subject them to serious inconvenience and potential expense, is clearly of no concern to CompTel, whose only interest is to impede AT&T's ability to compete with its member carriers. Similarly, TRA (pp. 5-6) opposes even modestly expanding the floor on price decreases from the present 5% to 15%, even though AT&T has already shown that any price floor is unnecessary and simply impedes price competition. TRA's proposal too has no conceivable public interest basis and can only serve to impede marketplace competition.²

² Most of the other rule changes proposed in the Comments are similarly inimical to the interests of consumers and

(footnote continued on following page)

In fact, the record abundantly confirms AT&T's showing that the interexchange telecommunications marketplace is intensely competitive and that the Commission's price cap rules for AT&T -- and further embellishments on them such as the Further Notice and the commenters propose -- are no longer necessary, appropriate or even lawful.³ Consumer welfare will be maximized not by the imposition of burdensome new rules but by full and open marketplace competition.⁴

(footnote continued from previous page)

advance only the self-interest of the commenting parties. For example, BellSouth (pp. 9-11); PacBell (pp. 13-15) and TRA (p. 4) all oppose creation of the new APP category, seeking to deny AT&T even the minimal additional pricing flexibility it would afford. SWB (pp. 14-18) and CompTel (pp. 2-6) would support a new APP category but only with untenable conditions that are clearly designed to sabotage the plan (*i.e.*, no true-up of initial 90-day demand and placing APPs in a separate category from MTS). None of these commenters offer any valid public interest grounds for the proposals they advance.

³ The Commission is obligated under the Administrative Procedures Act to reconsider settled policies when the underlying factual predicate for those policies has changed, and must "explain its reasons for continuing to adhere to a particular policy when properly challenged in a specific case." Flagstaff Broadcasting Foundation v. FCC, 979 F.2d 1566, 1571 (D.C. Cir. 1992); accord Bechtel v. FCC, 957 F.2d 873, 881 (D.C. Cir. 1992).

⁴ The commenters' attacks on exogenous cost treatment of accounting changes are moot, because AT&T does not contest such a revision. No commenter, however, shows any need to restrict future changes to rulemakings or waivers if price cap regulation of AT&T is continued.

I. THE INTEREXCHANGE MARKETPLACE IS FULLY COMPETITIVE AND
NON-DOMINANT TREATMENT OF AT&T IS THEREFORE REQUIRED

AT&T's comments in this proceeding showed that by the very standards the Commission has applied in the past, AT&T lacks market power and, consequently, there is no longer any basis for price cap regulation of AT&T's Basket 1 services.⁵ The three principal factors that the Commission has examined when measuring the level of competition -- supply elasticity, demand responsiveness, and market share --- all show that the entire interexchange market is fully competitive for all customers at all levels of usage.⁶ First, it is beyond dispute that AT&T's competitors have enormous excess capacity and could absorb a substantial portion of AT&T's traffic in a short amount of time.⁷ Thus,

⁵ AT&T Comments, filed July 3, 1995, pp. 7-8 ("AT&T Comments") and attached Statement of Robert D. Willig ("Willig Statement"), pp. 2-3. AT&T also incorporated into the record in this proceeding (Id. at p. 6) the comprehensive record compiled in the Reclassification Proceeding in which AT&T is formally seeking a declaration of nondominance. See Motion for Reclassification of American Telephone and Telegraph Company as a Nondominant Carrier, CC Docket No. 79-252, filed September 22, 1993 ("Reclassification Motion"); Reply Comments of AT&T, CC Docket No. 79-252, filed December 3, 1993; see also Ex Parte Presentation in Support of AT&T's Motion for Reclassification as a Nondominant Carrier, CC Docket No. 79-252, filed April 24, 1995 (updating evidence submitted in 1993) ("Reclassification Ex Parte"); additional ex parte in id., filed June 12, 1995 and Reply of AT&T, CC Docket No. 79-252, filed June 30, 1995 ("June 30 Reply").

⁶ AT&T Comments, pp. 8-13.

⁷ Id., at p. 8.

if AT&T were to charge supracompetitive prices for services, AT&T competitors could immediately take away large numbers of AT&T's customers. Second, the rate of customer "churn," with 30 million carrier changes (many of them lower volume users) projected during 1995, shows that customers are acutely aware of their service options and ready and willing to switch carriers when it suits their needs.⁸ Third, AT&T's share of the interexchange market continues to diminish as multiple new carriers have entered the market and as MCI and Sprint gain share and become even stronger by entering into alliances with giant foreign telecommunications firms.⁹ Under applicable Commission precedents, AT&T thus lacks market power and is entitled to be classified as nondominant.

The other comments do nothing to refute AT&T's showing that the interexchange market is fully competitive; to the contrary, some of those filings underscore the intensity of that competition. For example, TRA's comments (p. 2) indicate that there are now over 1,000 resale carriers (300 of whom are TRA members), "serv[ing] millions of customers, representing tens of billions of minutes of long distance traffic, and generat[ing] annual revenues in the billions of dollars." According to TRA, its members

⁸ Id. at pp. 9-10

⁹ Id. at pp. 11-13.

range from "high-growth companies to well-established, publicly traded corporations," most less than 10 years old, who "represent far and away the fastest growing sector of the long distance industry." Despite phenomenal growth in the last 5 to 10 years, TRA indicates that the "market share of the interexchange resale industry is nonetheless forecast to double in size" in less than five years. This is highly persuasive evidence that no firm has market power or is "dominant" in the interexchange market. Rather, it is a healthy and vibrant market with an abundance of suppliers who can readily win new customers by offering services consumers want.

Nevertheless, the four commenting RBOCs assert that AT&T remains dominant because it has supposedly failed to flow through all access charge reductions as it would have in a fully competitive market.¹⁰ These claims are totally unfounded. AT&T has shown both in the Reclassification Proceeding and its initial Comments here that AT&T has filed rate reductions that substantially exceed its access cost savings. AT&T showed that not only are such access reductions required to be reflected in AT&T's rates by the Commission's price cap rules,¹¹ but the

¹⁰ See Bell Atlantic pp. 1-5; BellSouth, pp. 8,12; PacBell, pp. 7-8; SWB, pp. 2-3,8.

¹¹ 47 C.F.R. § 61.44(b).

Commission has recently expressly concluded that "the IXCs have passed on the savings they received from lower interstate access charges to end-users."¹²

The four RBOCs who erroneously assert otherwise base their claims primarily upon a study prepared by National Economic Research Associates, Inc., authored by W.E. Taylor and J.D. Zona ("Taylor and Zona" or "NERA Study").¹³ However, AT&T has shown that the NERA study is seriously flawed, because it fails to take into account all of AT&T's rate reductions, such as reductions for streamlined business services.¹⁴ Of particular importance, the NERA study has not accounted adequately for rate reductions associated with customers' actual migration to

¹² Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, released April 7, 1995, ¶ 61. In connection with its 1995 annual price cap filing, AT&T has recently again demonstrated in detail that the RBOCs' claims that AT&T has not fully reflected access charge reductions are based on erroneous data, and that AT&T has already flowed through more than the amount of its access savings. See AT&T Opposition to Requests to Deny filed July 19, 1995 in AT&T 1995 Price Cap Filing.

¹³ See PacBell, Exhibit A. Bell Atlantic submits what is apparently an earlier version of the same study.

¹⁴ See June 30 Reply, pp. 30-32. Taylor and Zona's methodology is inherent in Attachment A to their study. In addition, the source of much of their data is unidentified. Their 1984-88 data appear to be derived from an appendix to the Commission's Price Cap Order (see Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Report and Order, 4 FCC Rcd 2873 (1989), but the source for later years could not be located.

lower priced services. Accounting for such migration is clearly appropriate because it reflects real consumer benefits that should not be ignored.¹⁵

The Reply Comments submitted by the staff of the Bureau of Economics of the Federal Trade Commission ("FTC") in the Reclassification Proceeding confirm that the NERA study relies on a flawed methodology that "overstates the likelihood of collusion" in pricing and understates "industry level demand elasticity."¹⁶ The FTC staff's Reply explains that NERA's study used, "unchanging estimates of the industry level demand elasticity," thereby "implicitly assum[ing] no change in the substitutability between firms (such as AT&T, MCI and Sprint), when substitutability likely

¹⁵ See Haring, Rohlfis, Shooshan, Attachment 2, pp. 22-23. Indeed, Taylor's published work, on which the Taylor and Zona study is based, takes account of such effects. W.E. Taylor and L.D. Taylor, "Postdivestiture Long Distance Competition in the United States," American Economic Review: Papers and Proceedings, Vol. 83, No. 2, May 1993, p. 185, 187 and n.5. Also, Taylor recently testified that migration could affect a calculation of whether an IXC's rate reductions equal its access charge reductions. See IntraLATA Competition for Telecommunications Services, New Jersey Board of Public Utilities, Docket No. TX 9409 0388, cross-rebuttal testimony of William E. Taylor, pp. 3786-90, 3805-06. The NERA study (pp. 24-25, n.38) attempts to do the same thing, in passing, but it uses old data and substantially understates the effect of migration (see Attachment 2, p. 23 n.24).

¹⁶ Reply Comment of the Staff of the Bureau of Economics of the FTC, CC Docket No. 79-252, filed June 30, 1995 in Reclassification Proceeding, pp. 4-5.

continued to increase."¹⁷ This resulted in a substantial understatement of the "range of elasticities," that would "tend to be biased in favor of finding collusion . . . among AT&T and its rivals."¹⁸

In fact, a direct analysis of AT&T's financial data shows that AT&T's nominal revenues per minute net of access charge reductions have decreased by about 12% between 1984 and 1994.¹⁹ Moreover, when AT&T's real rates net of access are considered (i.e., when inflation is applied to

¹⁷ Id. at 5.

¹⁸ Id. at 7. The RBOCs spurious allegations of failure to flow-through access savings are further undercut by a joint pleading Bell Atlantic and SWB filed with the Commission barely two months ago in seeking a stay of portions of the LEC Price Cap Order. Price Cap Performance Review For Local Exchange Carriers, CC Docket No. 94-1, released April 7, 1995. Bell Atlantic and SWB sought to convince the Commission that a stay of certain changes in price cap rules that would reduce rates would not cause "the public at large [to] suffer from higher prices as a result." The rationale advanced by Bell Atlantic and SWB was that even if a stay were granted, "[c]ompetitive forces will impel interexchange carriers to reduce their prices to account for the anticipated recovery of any sums subject to an accounting order or placed in an escrow account." Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1; Price Cap Regulation of Local Exchange Carriers, Rate of Return Sharing and Lower Formula Adjustment, CC Docket No. 93-179, Joint Petition For A Partial Stay and For Imposition of an Escrow or Accounting Mechanism Pending Judicial Review, filed May 9, 1995, p. 25 (emphasis added).

¹⁹ See Haring, Rohlfs and Shooshan, Attachment 2, p. 27, n.27 (quoting, General Investigation into IntraLATA Competition, West Virginia Public Service Commission, Case No. 94-1103-T-GI, Rebuttal Testimony of G. Blaine Darrah III, May 24, 1995, p. 7).

this figure, as in the price cap formulas) customers' real rates net of access have declined by 37% since 1984.

In addition, an analysis was performed to reflect the rate reductions of customers who migrated to lower priced services and/or to new services during the period 1991-1994.²⁰ This analysis was conducted by generating an update of the migration study referenced by the NERA study, using current data. The analysis shows that:

in addition to not raising prices at all due to inflation, AT&T flowed through all reductions in domestic access charges. In addition, AT&T flowed through the large reductions it negotiated in international-settlements costs. Finally, AT&T provided another \$364 to \$464 million of benefits to consumers.²¹

Thus, the opposing RBOCs are simply wrong in asserting that AT&T has not flowed through access reductions.

The commenting RBOCs also repeat their old argument that AT&T should be denied greater flexibility because the three major IXC's have supposedly engaged in parallel or "lock-step" pricing.²² However, as Haring,

²⁰ Other AT&T data indicate that the sharpest decline in average revenue net of access occurred prior to 1991. Thus, the calculations here are a conservative measure of consumer benefits for the period since 1984 (see Haring, Rohlfs and Shooshan, Attachment 2, p. 27 n.27).

²¹ Id., pp. 26-27 (emphasis in original).

²² Bell Atlantic, p. 5; BellSouth, p. 8; PacBell, pp. 7-8; SWB, pp. 2-3.

Rohlf's and Shooshan explain, the pricing behavior prevalent in today's interexchange market is in fact indicative of vigorous and effective competition.²³ In recent years AT&T has undertaken to rebalance its rates in conformance with the dictates of competition and economic efficiency.²⁴ This has resulted in some rate increases and some decreases. Broadly speaking, rates have been increased modestly for the lightest users and lowered for heavier so that fixed-cost burdens of serving individual customers are more properly assigned.²⁵ Far from manifesting market power, "this type of rebalancing is compelled by competition," because if AT&T failed to do so "it would lose higher-volume customers to its competition".

²³ Haring, Rohlf's and Shooshan, Attachment 2, p. 8. Also, see AT&T's June 30 Reply, pp. 25-27, and D. Kaserman and J. Mayo, "Is AT&T 'Dominant?' An Assessment of the Evidence," attached to letter from Charles L. Ward to William F. Caton, additional ex parte, filed June 12, 1995 ("Kaserman and Mayo") pp. 40-52.

²⁴ See Haring, Rohlf's and Shooshan, Attachment 2, p. 8. To the extent the four RBOCs imply tacit collusion in pricing interexchange services, AT&T's June 30 Reply (pp. 22-27) has thoroughly refuted such claims, showing that collusion would be "virtually impossible" for a number of structural reasons (e.g., excess capacity) and that behavioral evidence (e.g., the long downward trend in prices and AT&T's unstable market share) establishes that concerns over collusion are unfounded. Also, the FTC staff's Reply in the Reclassification Proceeding (pp. 4-7) shows that the NERA Study, which the RBOCs rely upon, "overstates the likelihood of collusion."

²⁵ Haring, Rohlf's and Shooshan, Attachment 2, p. 8.

As Haring, Rohlfis and Shooshan further explain, AT&T's rivals quite logically respond because if they did not they too would be more likely to lose their most unprofitable customers.²⁶ The active competition at the high end of the market for interexchange services is indicative of the absence of collusion and supports granting the relief AT&T seeks, not the imposition of new regulatory burdens.²⁷ Indeed, if "lock-step" pricing were a legitimate concern, the least effective means to deter it would be to reduce AT&T's pricing flexibility, as the RBOCs urge.

Finally, CompTel (pp. 6-7) opposes application of the proposed new rules governing APPs to the IMTS and operator card services categories, claiming that AT&T holds "significant" market power in these areas, just as it

²⁶ Id. at 8. AT&T has shown, moreover, that its basic schedule rates do not cover the direct costs of serving the one-third of consumers who make under \$3 a month in calls. Reclassification Ex Parte, p. 51, n.119. These costs include not only per-customer universal service costs of \$.52 per customer and bill-rendering costs ranging from \$.33 to \$.88 per customer, but also variable network costs, access costs, uncollectibles, settlements, and sales costs.

²⁷ Id. See Kaserman and Mayo, pp. 50-51. See also, Haring, Rohlfis and Shooshan, Attachment 2, p. 8-9 ("just as one can (and for the same reasons) expect to pay relatively more per ounce of corn flakes purchasing a small package compared to a large one, one might expect to pay more per minute of long-distance calling the fewer the volume of calls one makes." "[Such rebalancing] is the antithesis of price discrimination," [and is, in fact] "compelled by effective competition") (emphasis in original).

claimed in the Reclassification Proceeding.²⁸ CompTel's conclusory assertion is without merit. AT&T showed in its June 30 Reply that its share of international traffic has fallen drastically (to 63%) in recent years because of rapidly rising competition.²⁹ CompTel claims that AT&T nevertheless has market power in the IMTS segment because AT&T supposedly has a high share of calling to several unspecified countries. CompTel's cursory "analysis" is incorrect because it is apparently based on old data.³⁰ It

²⁸ Two other parties, MCI and TRA, also raise the same spurious claims as to AT&T's supposed "dominance" that they raised in the Reclassification Proceeding. MCI's claim (p. 2, n.1) that AT&T's exercise of rights in certain patents "would empower it to effectively control competition in the interexchange marketplace" is absurd, as was shown in AT&T's June 30 Reply (pp. 13-14 and n.24), and, in all events, is utterly speculative and far beyond the scope of this proceeding. Also, TRA (p. 4) references its filings in the Reclassification Proceeding, claiming AT&T supposedly continues to possess market power, which it has supposedly abused in its dealings with resellers. AT&T's June 30 Reply (pp. 35-42) thoroughly refutes the litany of bad acts that TRA ascribes to AT&T and shows that AT&T has fully satisfied its legal obligations to allow resale. TRA's Comments in actuality seek to gain favored regulatory status for its members and to further shackle AT&T's ability to compete.

²⁹ See Reclassification Ex Parte, pp. 26-27.

³⁰ CompTel does not provide any source for its claim (p. 6) that "AT&T carries 70 percent of the traffic to many large countries. . . ." Assuming CompTel is referencing the same countries as its Opposition in the Reclassification Proceeding, its figures for the countries it cites are from 1993, based upon revenues. More recent data supplied by PTTs, based upon minutes of use, show substantial declines in AT&T's share, i.e., Mexico - 63% (based upon 1994 data); United Kingdom - 59.6% (July 1994); Germany - 64.5% (1994); Italy - 61.5%

is also wrong because it ignores other important countries, such as Taiwan and China, in which AT&T had a 1993 market share of 42% and 47%, respectively. In all events, CompTel has failed to establish (nor could it) that AT&T has market power. That possibility is completely negated by the fact that at least two carriers, MCI and Sprint, have virtually ubiquitous relationships with foreign administrations and that there are thus already at least three competitors (and often more) serving every country that accounts for 0.1% or more of international revenues.³¹

CompTel is also wrong in asserting that AT&T has market power in the operator/card segment because it supposedly remains the only IXC that can issue a proprietary calling card that uses 0+ dialing. To the contrary, AT&T has shown that such cards could be issued by any carrier choosing to do so.³² Moreover, the marketplace has changed significantly since the Commission earlier considered (and

(footnote continued from previous page)

(1Q95). Overall, for the top 20 foreign countries, AT&T lost a total of approximately 18 points of market share between 1990 and 1993.

³¹ See Reclassification Ex Parte, p. 26.

³² See, e.g., AT&T's June 2, 1992 Comments in CC Docket No. 92-77, Billed Party Preference for 0+ Calls, pp. 5-7.

rejected) the 0+ public domain proposal.³³ Hence, CompTel's claims in this regard are totally unfounded.

II. THE COMMISSION'S PROPOSALS FOR ADDITIONAL REGULATION ARE UNWARRANTED BECAUSE AT&T'S PROMOTIONAL DISCOUNTS DO NOT THREATEN EITHER THE REASONABLENESS OF BASIC RATES OR UNIVERSAL SERVICE

In its Comments, AT&T demonstrated that the Commission's concerns regarding universal service and the general availability of AT&T's discount plans were unfounded. Specifically, AT&T showed (p. 28) that the interexchange market is intensely competitive and that market pressures would preclude any attempt by AT&T (or any other interexchange carrier) to raise rates in any market segment to unreasonable levels. AT&T further showed that telephone "penetration" (*i.e.*, telephone subscribership) has actually increased during the time that AT&T has offered promotional discounts under the Commission's price cap rules; that there is no apparent correlation between the level of basic MTS rates and loss of telephone service; and that virtually every customer within the United States has alternatives to AT&T's basic schedule rates, either through

³³ First, in order to assure that customers can always reach AT&T's network, AT&T no longer markets its proprietary cards using a 0+ access message. Second, in response to specific customer requests, AT&T has issued over 17 million "True Choice" cards that do not even reference (and have never referenced) 0+ access. Third, AT&T has recently issued termination notices to the LECs with which it has executed Mutual Honoring Agreements.

AT&T discount plans or through competing interexchange carriers that may be reached via Feature Group A and/or B dialing protocols in the small number of locales where equal access is unavailable.

Nonetheless, a few commenters attempt to suggest that the availability of AT&T's discount plans is significantly limited due to the lack of equal access,³⁴ and that there is some relationship between the level of basic MTS rates and the Commission's universal service goals. Neither of these suggestions is supported by the evidence.³⁵

A. AT&T's Pricing Discounts Promote, Rather Than Deny Reasonable Rates For AT&T Customers.

As AT&T showed in its Comments, (pp. 35-39), AT&T's promotional offerings reflect the vigorous competition within the long-distance market. Contrary to any suggestion by commenters, the benefits of these discount programs have been extended to the overwhelming majority of AT&T customers. True Rewards[®] -- one of AT&T's most significant "True" programs -- is available nationwide. AT&T's True Savings[®] and True USASM Savings are available to nearly all customers in equal access areas.³⁶ Though AT&T

³⁴ USTA, p. 4.

³⁵ PacBell, pp. 17-18; SWB, pp. 5-7; USTA, pp. 4-5.

³⁶ AT&T estimates that 99.98% of its interstate minutes originate in equal access areas in which True USA Savings is available, and 96.18% of such minutes originate in equal access areas in which True Savings is available.

cannot offer True Savings and True USA Savings in the few remaining non-equal access areas, this is only because AT&T is not provided with the billing information necessary to properly rate calls under these programs.³⁷ Moreover, non-equal access areas represent only 2.7% of access lines, and the number of non-equal access areas is rapidly diminishing.³⁸ Thus, rather than being unduly restricted, the availability of AT&T's discounts is being continuously expanded.

If the Commission is nonetheless concerned about the effect that lack of equal access has on the availability of AT&T's discount programs, the appropriate solution is to require all LECs promptly to implement equal access.³⁹ This will ensure the universal availability of AT&T's discount programs, and also provide other, well-documented benefits of equal access to all interexchange customers.⁴⁰

³⁷ AT&T's True Rewards program does not require such detailed billing and rating information.

³⁸ See AT&T Comments, p. 29 n.51; "Telephone Lines and Offices Converted to Equal Access," Industry Analysis Division, Common Carrier Bureau (November 1994), Table 1.

³⁹ By making AT&T's savings programs available to all customers nationwide, implementation of equal access would also end any suggestion (however spurious) that discount plans "de-average" toll rates.

⁴⁰ For example, equal access conversion and associated balloting provides the opportunity and incentive for other carriers already serving customers elsewhere in the LATA to extend their service to newly converted exchanges.

There is also no merit to claims that AT&T's rate reductions have only benefited high volume users.⁴¹ Bell Atlantic's claim (p. 4) that 60% of AT&T's customers have usage levels too low to benefit from a discount plan is simply wrong. Over 60% of AT&T's total Basket 1 minutes of use are now sold pursuant to some form of discount program. Furthermore, because AT&T's discount programs require as little as \$10 per month in usage -- a level that even customers with very low average monthly bills will achieve in some months-- about two-thirds of AT&T's residential customers qualify for discounts at least one month per quarter.

Nor is there any basis to PacBell's claim (pp. 15-17) that AT&T's discounts to higher volume users are unreasonably discriminatory. AT&T's Comments (pp. 32-39) showed that AT&T's mass market discounts are reasonable because they reflect both the intense competition for residential long distance customers and a legitimate balancing of prices with costs. As Haring, Rohlfs and Shooshan observe "effective competition makes discrimination impossible".⁴² Hence, AT&T's discount plans raise no tenable issue of unreasonable discrimination.

⁴¹ Bell Atlantic, p. 4; SWB, p. 10.

⁴² Attachment 2, p. 9 (citing Nobel economist Gary Becker).

B. This Proceeding Is Not The Appropriate Forum
To Address Universal Service Issues.

The evidence before the Commission conclusively demonstrates that AT&T's basic schedule rates do not diminish telephone "penetration." Indeed, as AT&T's Comments showed, the Commission's study of this issue indicates that telephone subscribership has increased since the inception of price cap regulation of AT&T in July 1989, and that the general trend over this period has been toward increased penetration.⁴³ There is, consequently, no basis to conclude that AT&T's discount programs have adversely affected penetration rates, since AT&T has offered such plans throughout this period.

Studies cited by commenters, and in the Further Notice, provide no support for the claim that the level of AT&T's long-distance rates reduce penetration. Each of these studies instead suggests that excessive toll usage -- not the level of toll rates -- may be one of several factors associated with disconnection of basic local service.⁴⁴

⁴³ See AT&T Comments, p. 31; see also "Telephone Subscribership in the United States," Industry Analysis Division, Common Carrier Bureau (April 1995), Table 1, p. 6.

⁴⁴ In addition to the Commission's own study showing an increase in penetration, commenters principally cite two studies to suggest that interexchange rates affect penetration rates. SWB's comments (at p. 6) link disconnection with a number of factors, including charges for optional features, collect calls, credit card calls, as well as interexchange calls. It then specifically concludes that "marginal users are driven off the network

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Moreover, these studies also suggest that excessive usage of local premium features and services is also strongly correlated with disconnection of basic local service. Further regulation of AT&T's interexchange rates will not, and cannot, resolve these usage problems.

The Commission is correct in seeking to explore means to expand further the availability of telecommunications service. Universal service is, however, an issue that pertains to the entire telecommunications industry, and to that end the Commission has recently issued

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by usage-related costs." See Mueller and Schement, "Universal Service From the Bottom Up," Rutgers University, January 1995. Nothing in the study indicates that the level of rates for these services is the cause of disconnection. The second study (SWB, p. 7) suggests that usage of, and connection to, the public network may increase if certain fixed charges (such as the Subscriber Line Charge) are increased and interstate access rates are correspondingly decreased, allowing for further reductions in interexchange rates. See Hausman, Tardiff, Belinfante, "The Effect of the Breakup of AT&T on Telephone Penetration in the United States," 83 American Economic Review 178 (May 1993). While AT&T believes that a rebalancing of access rates and other charges in accordance with costs may be beneficial and increase use of the public network, such a rebalancing cannot be achieved by further limiting AT&T's ability to adjust its interexchange rates in response to market pressures and demands.

SWB also refers (pp. 5-7) to a number of self-sponsored and other LEC studies. Most of these studies have not been published, and all are based on information collected more than five years ago. Moreover, these studies, like the others cited, do not to address (so far as can be determined) the level of interexchange rates, but rather, total interexchange charges.